IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

**WRIT PETITION NO : 11490 of 2000**

Between:

S.K.Zilani, S/o. Hussain Saheb,
R/o. Cherlopalli Village, Owk Mandal,
Kurnool District.

**..... PETITIONER**

AND

1 The Chief Engineer (Electricity) A.P.Transco,
Cuddapah Zone, Cuddapah.
2 The Superintending Engineer (Assessments) A.P.Transco,
Cuddapah.
3 The Assistant Divisional Engineer (C.C.O) A.P.Transco,
Banaganapalli, Kurnool District.

**.....RESPONDENT(S)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the order of the 1st respondent issued in proceedings bearing Lr.No.CE/CZ/CDP/C&P/221/A.3-2000-KNL/D.No.300/99 dt. 29.2.2000 confirming the final assessment order of the 2nd respondent vide proceedings bearing No.SE/A/CDP.BNP/NCL/F.23/99-2000/D.No.3000/99 dt. 7.12.99 as illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently set aside the same and pass

**Counsel for the Petitioner:MR.C.V.NAGARJUNA REDDY**

**Counsel for the Respondent No.: SMT.M.VINOBHA DEVI**

**The Court made the following :**

**ORDER**:

Heard both the sides.

The petitioner, who is running a Small Scale Slab Polishing Unit under the name and style of Bharat Slab Polishing Industry in a remote village in Kurnool District, filed this writ petition, *inter alia,* seeking a writ of Mandamus declaring the proceedings of the first respondent dated 29.02.2000, confirming the final assessment orders of the second respondent dated 07.12.1999 as illegal.

The case of the petitioner is that the petitioner's concern is a very Small Scale Polishing Unit and that too doing business in a remote village and it was given a power supply connection on 1.07.1997 and prior thereto the supply was disconnected. However, during the inspection, which was conducted on 07.08.1999, on certain allegations of pilferage of energy, the assessment proceedings were initiated. Initially, on 11.08.1999 a preliminary assessment notice was issued for a sum of Rs.10,44,789/- and subsequently on 24.08.1999 another notice was issued by the second respondent for a sum of Rs.8,82,165/-. Subsequent to the filing of the objections and also denying the involvement in regard to the allegations, the final assessment was made on 23.12.1999 reducing the same drastically to a sum of Rs.1,53,683/- and the said orders were confirmed in appeal by the appellate authority on 11.01.2000. Hence, the writ petition.

The main submission made on behalf of the petitioner is that having regard to the fact that the power supply connection itself was given on 31.07.1999 and the inspection made on 07.08.1999 could not possibly yield to any such exorbitant assessment by the authorities and further there was absolutely no possibility of finding any such acts of pilferage.

These submissions were sought to be repealed by the standing counsel appearing for the respondents.

Having considered the submissions made on both the sides and on perusal of the material, the question which falls for consideration is as to whether there is any case of pilferage of energy and the quantum arrived at is correct ?

There is no dispute to the fact that there was an inspection made on 07.08.1999, wherein it has been found that:

1. The incoming and outgoing cables of meter box were found burnt due to fire;
2. The meter box was covered with black soot and some ash;
3. The glasses of meter box and meter cover were found broken completely.
4. The seal bit of C.T.chamber was found cut. The seal bit of C.T.chamber was cut and the seal bit of in and out chambers were found missing.
5. After opening of meter chamber door, C.T. chamber door and in and out chamber doors, it was observed that on some fluid like kerosene mixed with water and ash of cotton cloth was available inside the meter chamber and in and out chambers and further the seal bit of water terminal cover was missing and one seal bit at the right side of meter cover was melted and the dial mechanism was melted completely and nothing was available and the C.T. coils and the connecting wires from C.T. coils to the meter terminal block were in good condition.

On these allegations, the respondents proceeded to give a finding that there was a clear case of pilferage of energy. Initial assessment made at Rs.8,82,365/- was brought down drastically to a sum of Rs.1,53,683/- in the final assessment and these findings were confirmed in appeal by the appellate authority. Even though several contentions are sought to be urged on merits, the fact remains is that both the authorities have concurrently found that there were serious acts of pilferage of energy and tampering of meter and even the allegations as found are quite surprising and the petitioner sought to interfere with the meter where he cannot have access, for tapping of energy, which itself is a serious one and does not call for any indulgence from this Court.

Having regard to the fact that the initial amount was so drastically reduced, even *prima facie*, I do not find any error in regard to the assessment as arrived. However, by taking into consideration the long lapse of time and the inspection was made as long as on 07.08.1999 and the petitioner is running a small business, it would suffice in the interest of justice to reduce the same by 25%. The amount of Rs.1,53,683/- stands reduced to Rs.1,15,262-25 Ps.

The writ petition is, accordingly, partly allowed. The amount of Rs.1,53,683/- stands reduced to Rs.1,15,262-25 Ps. It is needless to mention that any amount paid by the petitioner shall be given credit to. No costs.

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**B. PRAKASH RAO, J**

3rd February 2005.

Chvn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the Third day of February Two thousand and five.

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER.

To

1 The Chief Engineer (Electricity) A.P.Transco,
Cuddapah Zone, Cuddapah.
2 The Superintending Engineer (Assessments) A.P.Transco,
Cuddapah.
3 The Assistant Divisional Engineer (C.C.O) A.P.Transco,
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4 Two C.D. copies.